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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 DAVID UPTON,) No. ED CV 08-1497-ABC (PJW)
11)
12 Petitioner,) ORDER TO SHOW CAUSE WHY PETITION
13 v.) SHOULD NOT BE DISMISSED
14)
15 DIRECTOR OF CORRECTIONS,)
Respondent.)

16 On October 24, 2008, Petitioner filed a Petition for Writ of
17 Habeas Corpus ("Petition"), seeking to challenge the lawfulness of a
18 parole revocation proceeding. According to the Petition, he was
19 convicted of being a felon in possession of a loaded firearm in
20 January 2006 and sentenced to four years in custody.¹ (Petition at
21 2.) Thereafter, he was released on parole and, in September 2008, his
22 parole was revoked, resulting in a five-month sentence. (Petition at
23 3-4.) Petitioner claims that the September 2008 revocation
24 proceedings violated his constitutional rights. (Petition at 3-6.)
25 Beginning in April 2009, however, Petitioner notified the Court of
26 several changes of address, all of which listed street addresses
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28 ¹ Petitioner has filed a separate habeas petition challenging
the underlying convictions, which is still pending before the Court.
(See *Upton v. State of California*, CV 07-1067-ABC (PJW).)

1 indicating Petitioner had served the entirety of the sentence and been
2 released from prison.

3 The case or controversy requirement of Article III of the
4 Constitution deprives the Court of jurisdiction to hear moot cases.
5 *Iron Arrow Honor Soc'y v. Heckler*, 464 U.S. 67, 70 (1983). A case
6 becomes moot if the issues presented are no longer "live" or the
7 parties have no legally cognizable interest in the outcome. *Murphy v.*
8 *Hunt*, 455 U.S. 478, 481 (1984). "To satisfy the Article III case or
9 controversy requirement, a litigant must have suffered some actual
10 injury that can be redressed by a favorable judicial decision." *Iron*
11 *Arrow*, 464 U.S. at 70.

12 A habeas petition that challenges an underlying conviction is not
13 rendered moot by the expiration of the sentence that was imposed as a
14 result of the conviction. *Spencer v. Kemna*, 523 U.S. 1, 7 (1998). In
15 such a case, courts presume that a criminal conviction has some
16 continuing, collateral consequences that will preclude mootness. *Id.*
17 at 7-8. This presumption of continuing collateral consequences does
18 not extend to parole revocations. *Id.* at 12, 14. Therefore, a
19 petitioner who seeks to challenge the validity of a parole revocation
20 term that has already been served must demonstrate that continuing
21 collateral consequences exist, or the petition will be dismissed as
22 moot. *Id.* at 14; see also *Cox v. McCarthy*, 829 F.2d 800, 803 (9th
23 Cir. 1987) (finding claim moot because "[i]t is clear that the direct
24 consequences of the state action challenged here can no longer be
25 remedied in habeas").

1 IT IS THEREFORE ORDERED that, no later than March 17, 2010,
2 Petitioner shall inform the Court in writing why this case should not
3 be dismissed as moot. Failure to timely file a response will result
4 in a recommendation that this case be dismissed.

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6 DATED: February 18, 2010.

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9 PATRICK J. WALSH
10 UNITED STATES MAGISTRATE JUDGE
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